

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

December 2, 2004

A meeting of the Board of Environmental Protection was held on Thursday, December 2, 2004, at the Holiday Inn / Ground Round in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 8:30 a.m. with the following individuals present:

Board: Nancy Anderson, Irving Faunce, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler.

Donald Guimond was absent and Board member Irving Faunce departed at approximately 12:30 p.m.

<u>Staff:</u>	Office of the Commissioner	Malcolm Burson
	Bureau of Air Quality Control	Ron Severance
	Bureau of Air Quality Control	Jeffrey Crawford
	Bureau of Air Quality Control	Lynne Cayting
	Bureau of Air Quality Control	James P. Brooks
	Bureau of Land and Water Quality	Mike Mullen
	Bureau of Land and Water Quality	Kristen Haley
	Bureau of Land and Water Quality	Judy Gates
	Bureau of Land and Water Quality	Jim Crowley

Others: Dawn Gallagher, Commissioner
David P. Littell, Deputy Commissioner
Peggy Bensinger, Assistant Attorney General
Jerry Reid, Assistant Attorney General
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 5:00 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner Littell reported the following:

Deputy Commissioner Littell shared comments from a letter written to Governor Baldacci commending Becky Maddox, who works in the Bureau of Land and Water Quality, for her prompt and effective resolution of an environmental problem in Damariscotta.

Commissioner Gallagher briefed the Board on the Department's report to the Legislature entitled "A Climate Action Plan for Maine 2004". She praised the hard work of staff and all those who participated in the stakeholder process leading to the issuance of this report, Commissioner Gallagher noted that Maine is the first state in the nation to pass a law that mandates reductions in carbon gas emissions. A press conference will be held tomorrow with Governor Baldacci in the Hall of Flags.

The report recommends development of a Legislative oversight committee to consider proposed initiatives where enactment of new laws may be required. The oversight committee would likely consist of Legislators from several committees including Natural Resources, Utilities and Energy, Agriculture and Forestry, and Transportation.

B. CHAIRMAN'S COMMENTS:

Chairman Wardwell shared news regarding the passing of Attorney Gordon Stein and recalled that Mr. Stein was before the Board recently.

C. EXECUTIVE ANALYST COMMENTS:

The Board's October 21st decision, which affirmed the Commissioner's approval of the application by the State Planning Office for an amendment to the license of the West Old Town Landfill, has been appealed to Superior Court by both We The People and Paul C. Schroeder.

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS: Reviewed

F. EXECUTIVE SESSION: None

II. CONSENT AGENDA ITEMS

The Board voted (8-0-0-1) to approve as presented, agenda item 1 as follows:

1. Raffie, LLC, Belfast – Administrative Consent Agreement and Enforcement Order

Board members Nancy Anderson, Irving Faunce, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler voted to support the motion. Board member Donald Guimond was absent.

III. Regular Agenda

1. SHANNON PEASE / COMMERCIAL WHARF CONSTRUCTION (appeal by Mr. Young and Mr. Garcia)

Kristen Haley, Bureau of Land and Water Quality

The Board voted (8-0-0-1) on a motion to deny the appeal submitted by Mr. Young and Mr. Garcia, affirm the Commissioner's approval of Department Order L-17413-4E-C-N for construction of a commercial wharf in Cushing, Maine, and approve the draft Board Order as presented. The vote was taken pursuant to 38 M.R.S.A. Section 344, 341-D(4), 480-A to 480-Z and 06-096 CMR Chapter 2

Board members Nancy Anderson, Irving Faunce, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler voted to support the motion. Board member Don Guimond was absent.

2. CHAPTER 305, PERMIT BY RULE STANDARDS / AMENDMENT (post to public hearing)

Staff: Mike Mullen, Bureau of Land and Water Quality

The Board voted (7-0-0-2) on a motion to post amendments to Chapter 305, Permit By Rule Standards to public hearing on January 6, 2005. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D and 480-H.

Board members Nancy Anderson, Irving Faunce, Ernest Hilton, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler voted to support the motion. Board members Don Guimond and Matt Scott were absent.

3. CHAPTER 151, ARCHITECTURAL and INDUSTRIAL MAINTENANCE (AIM) COATINGS / NEW (adoption*)

Jeffrey Crawford, Bureau of Air Quality

The Board voted (7-0-0-2) on a motion to adopt new Chapter 151, Architectural and Industrial Maintenance (AIM) Coatings rule as presented. The vote was taken pursuant to 38 M.R.S.A. Section 341-D and Section 585-A.

Board members Nancy Anderson, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler voted to support the motion. Board members Irving Faunce and Don Guimond were absent.

4. CHAPTER 127, NEW MOTOR VEHICLE EMISSION STANDARDS REGULATION / CALIFORNIA HEAVY DUTY DIESEL ENGINE VEHICLE EMISSION STANDARDS / AMENDMENT (adoption*)

Lynne Cayting, Bureau of Air Quality

The Board voted (7-0-0-2) on a motion to adopt Chapter 127, New Motor Vehicle Emission Standards / California Heavy-Duty Diesel Engine Vehicle Emission Standards amendments as presented. The vote was taken pursuant to 38 M.R.S.A. Section 341-D and Sections 585, 585-A and 585-D, and Section 177 of the 1990 Clean Air Act Amendments.

Board members Nancy Anderson, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler voted to support the motion. Board members Irving Faunce and Don Guimond were absent.

5. CHAPTER 127, NEW MOTOR VEHICLE EMISSION STANDARDS REGULATION / ZERO EMISSION VEHICLE PROGRAM (provisional adoption*)

The Board voted (2-5-0-2) on a motion to post Chapter 127, Zero Emission Vehicle Program to an additional 30-day written public comment. The vote was taken pursuant to 06-096

CMR Chapter 2. **Motion Failed**

Board members Richard Wardwell and Nancy Ziegler voted to support the motion.

Board members Nancy Anderson, Ernest Hilton, Virginia Plummer, Matt Scott and Jean T. Wilkinson voted opposed. Board members Irving Faunce and Don Guimond were absent.

The Board voted (7-0-0-2) on a motion to provisionally adopt Chapter 127, New Motor Vehicle Emission Standards Regulation / Zero Emission Vehicle Program as presented. The vote was taken pursuant to 38 M.R.S.A. Section 341-D, Sections 585, 585-A, 585-D and Section 177 of the 1990 Clean Air Act Amendments.

Board members Nancy Anderson, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler voted to support the motion. Board members Irving Faunce and Don Guimond were absent.

Next Regular Board Meeting, Thursday, January 6, 2005 – Holiday Inn / Ground Round, Augusta

BOARD OF ENVIRONMENTAL PROTECTION
Holiday Inn / Ground Round, Augusta at **08:30** a.m.
December 2 2004

I. DEPARTMENTAL

- A. Commissioner's Comments
Informational Session: Global Climate Change
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

ADMINISTRATIVE CONSENT AGREEMENT

Proposed Wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S.A. §347-A(6)

IRVING FOREST PRODUCTS, INC., NASHVILLE PLANTATION
7783

Contact: John Glowa 287-

Tentatively scheduled for Board Action on January 6, 2005

II. CONSENT AGENDA ITEMS

- 007 1. Raffie, LLC, Belfast – Administrative Consent Agreement and Enforcement Order

III. REGULAR AGENDA ITEMS

- 011 1. SHANNON PEASE / COMMERCIAL WHARF CONSTRUCTION (appeal by Mr. Young and Mr. Garcia)
Kristen Haley, Bureau of Land and Water Quality
- 153 2. CHAPTER 305, PERMIT BY RULE STANDARDS / AMENDMENT (post to public hearing)
Staff: Mike Mullen, Bureau of Land and Water Quality

BOARD TO RECONVENE AT 1:00PM TO CONSIDER REMAINDER OF REGULAR AGENDA

- 175 3. CHAPTER 151, ARCHITECTURAL and INDUSTRIAL MAINTENANCE (AIM) COATINGS / NEW (adoption*)
Jeffrey Crawford, Bureau of Air Quality
- 255 4. CHAPTER 127, NEW MOTOR VEHICLE EMISSION / HEAVY DUTY DIESEL / AMENDMENT (adoption*)
Lynne Cayting Severance, Bureau of Air Quality
- 277 5. CHAPTER 127, NEW MOTOR VEHICLE EMISSION / ZERO EMISSION VEHICLE PROGRAM (provisional adoption*)
Ron Severance, Bureau of Air Quality

Next Regular Board Meeting – Thursday, January 6, 2004 – Holiday Inn / Ground Round, Augusta

*At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chairman